

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-0267R

RESOLUTION VACATING PORTIONS OF PLATTED UNIMPROVED ROAD EASEMENT FOR THE ALLEY BETWEEN INDUSTRIAL AVENUE AND RIVERVIEW AVENUE (NANCY NILSEN AND RIVERSIDE RETREAT, LLC).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, May 14, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. _____:

LEGAL DESCRIPTION OF THE ALLEY TO BE VACATED:

The platted 20 foot alley lying between Industrial Avenue and 86th Avenue West located in Block 3 of the plat of RIVERSIDE, on file or of record in the office of the county recorder, St. Louis County, Minnesota.

Reserving an easement for utility purposes over, under and across the above-described alley;

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record with the register of deeds and/or the registrar of titles of Saint Louis County,

Minnesota, a certified copy of this resolution and Public Document No. _____ showing the platted easement to be vacated.

Approved as to form:


Attorney

PC/PLNG SR:cs 5/15/2013

STATEMENT OF PURPOSE: This resolution vacates a 20 foot road easement for the alley between Industrial Avenue and Riverview Avenue (86th Avenue West). This road easement has never been used for a public purpose and is not needed for the purpose that it was initially dedicated. A 20 foot utility easement is being maintained.

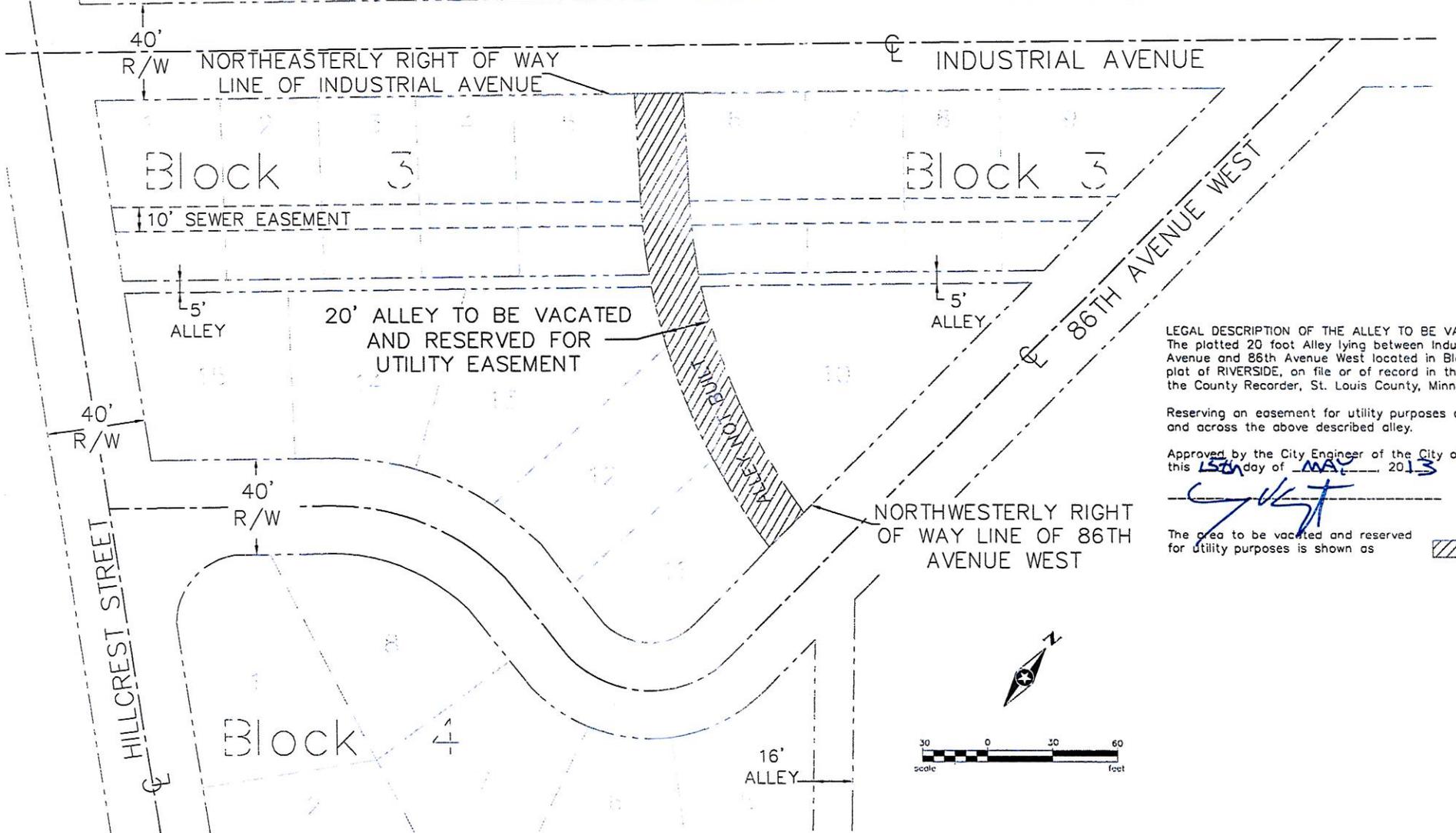
On May 14, 2013, the Duluth city planning commission held a public hearing on the proposal and voted 9 yeas, 0 nay and 0 abstentions to recommend the city council approve the vacation.

The motion to approve the vacation by the city council must prevail with at least six affirmative votes.

Petition received: April 4, 2013

Action deadline: There is no action deadline for this resolution.

PLAT OF RIVERSIDE



LEGAL DESCRIPTION OF THE ALLEY TO BE VACATED:
The platted 20 foot Alley lying between Industrial Avenue and 86th Avenue West located in Block 3 of the plat of RIVERSIDE, on file or of record in the office of the County Recorder, St. Louis County, Minnesota.

Reserving an easement for utility purposes over, under, and across the above described alley.

Approved by the City Engineer of the City of Duluth, MN this 15th day of MAY, 2013

The area to be vacated and reserved for utility purposes is shown as 



RAWN BY:	DRE			
SURVEYOR:	DRE			
CHECKED BY:	KLA			
NO.	BY	DATE	REVISIONS	

I HEREBY CERTIFY THAT THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

[Signature] David R. Everson, L.S.
Date: 05/23/13 Lic. No. 48505

SEH
PHONE: 218.279.3000
418 W SUPERIOR ST STE 200
DULUTH, MN 55802-1512
www.sehinc.com

DULUTH, MINNESOTA

EXHIBIT A

FILE NO. 1
REV#124050 1



CITY OF DULUTH

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 13-059	Contact	Steven Robertson, 218 730-5295	
Application Type	Vacation of Unimproved Street Easement	Planning Commission Date	May 14, 2013	
Deadline for Action	Application Date	April 4, 2013	60 Days	N/A
	Date Extension Letter Mailed		120 Days	N/A
Location of Subject	10 Industrial Avenue			
Applicant	Nancy Nilsen	Contact	nancynilsen@hotmail.com	
Agent		Contact		
Legal Description	See attached			
Site Visit Date		Sign Notice Date	April 30, 2013	
Neighbor Letter Date	April 25, 2013	Number of Letters Sent	53	

Proposal

Property owner is requesting a vacation of an unimproved street easement.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	R-1	Residential	Traditional Neighborhood

Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements requires a Planning Commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the Council.

Code Requirements are found in the UDC Section 50-37.6. The Planning Commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient, supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth .

H-1

Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Comprehensive Plan, Governing Principles:

Principle #5 - Strengthen neighborhoods. The present city is an historical amalgam of villages and other independent units of government, contributing to the present condition of Duluth being strongly defined by its neighborhoods. This condition should be reinforced through land use, transportation and public service delivery patterns which strengthen neighborhood identity. New institutional expansions, major public infrastructure or large commercial or industrial uses should not divide historic neighborhood patterns.

Current History: the applicant is submitting an application for an Interim Use Permit (Vacation Rental Business) for review at the May 2013 Planning Commission hearing.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

- 1) The applicant owns the land to the southwest of the proposed vacation area. The property owners submitted a petition that contained a majority of the affected property owners' signatures.
- 2) The unimproved right of way easement is 20 feet wide. There are some utilities are located in the easement requested to be vacated (natural gas and power lines). Minnesota Power and the City Engineering have requested that a full utility easement be maintained.
- 3) This vacation, if approved, will not deprive any currently platted lots of access to a public right of way.
- 4) This alley is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city (as long as an easement is maintained); the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
- 5) No comments were received from the public or city or government agencies on this proposal.
- 6) Vacations of streets lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

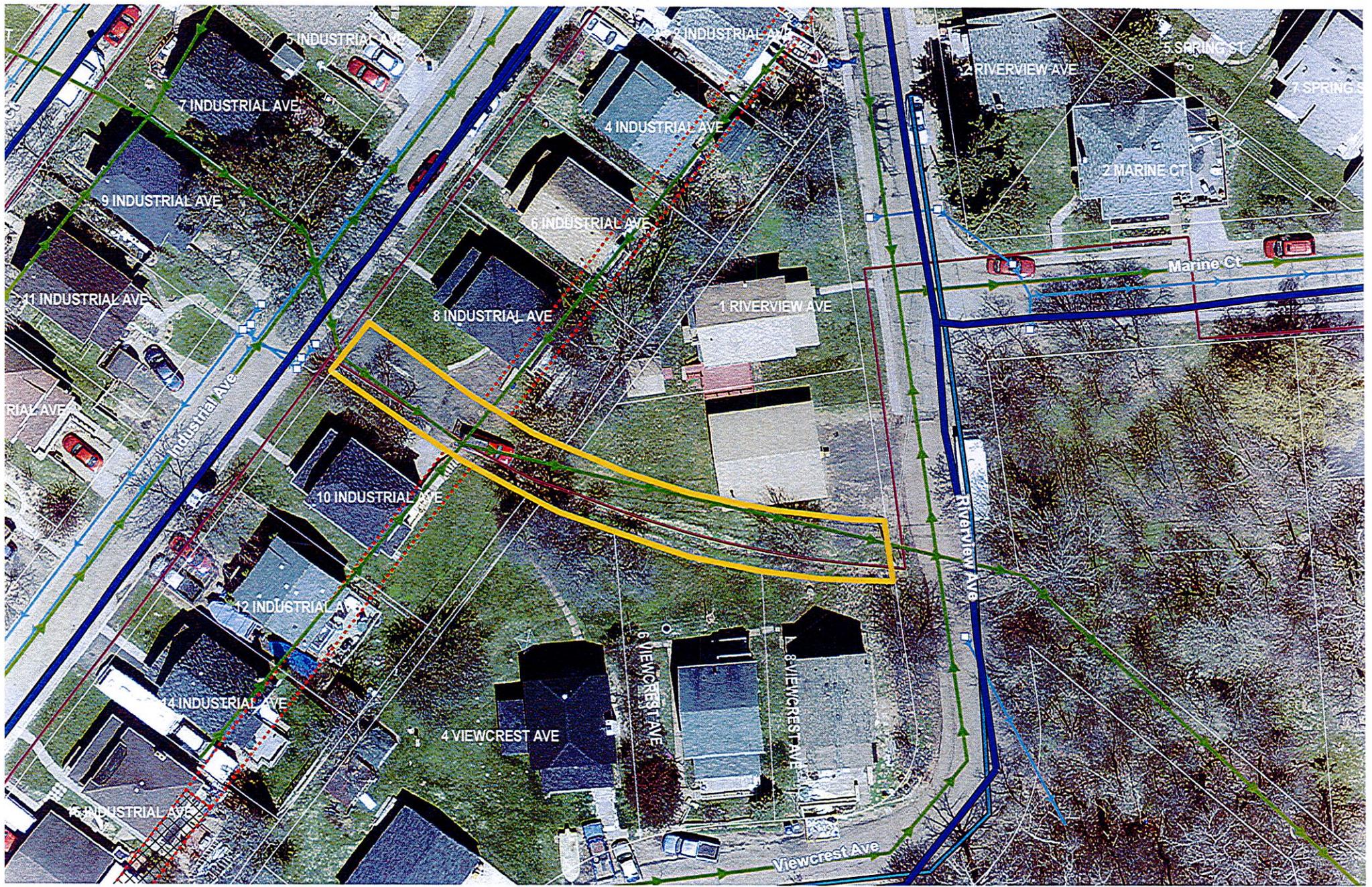
Based on the findings, Staff recommends that the Planning Commission recommend approval to the City Council for the petition to vacate the street easement with the following condition:

- 1) The alley be maintained as public right of way for utility needs (note: preservation of the alley already indicated in applicant's vacation certificate of survey).
- 2) Vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process.

2-1

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

h-1





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